

## Chapter 13 Utah Fertilizer Act

### 4-13-1 Short title.

This chapter shall be known and may be cited as the "Utah Fertilizer Act."

Enacted by Chapter 2, 1979 General Session

### 4-13-2 Definitions.

As used in this chapter:

- (1) "Adulterated fertilizer" means any commercial fertilizer that contains an ingredient that renders it injurious to beneficial plant life when applied in accordance with the directions on the label, or contains crop or weed seed, or is inadequately labeled to protect plant life.
- (2) "Brand" means any term, design, or trade mark used in connection with one or several grades of commercial fertilizer or soil amendment.
- (3) "Commercial fertilizer" means any substance that contains one or more recognized plant nutrients that is used for its plant nutrient content and is designed for use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule of the department.
- (4) "Distributor" means any person who:
  - (a) imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer;
  - (b) imports, consigns, manufactures, produces, compounds, sizes, or blends a soil amendment; or
  - (c) offers for sale, sells, barter, or otherwise supplies commercial fertilizer or a soil amendment in this state.
- (5) "Fertilizer material" means a commercial fertilizer that contains either:
  - (a) quantities of no more than one of the primary plant nutrients (nitrogen, phosphoric acid and potash);
  - (b) approximately 85% plant nutrients in the form of a single chemical compound; or
  - (c) plant or animal residues or by-products, or a natural material deposit that is processed so that its primary plant nutrients have not been materially changed, except through purification and concentration.
- (6) "Grade" means the percentage of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in whole numbers in the same terms, order, and percentages as in the guaranteed analysis; provided, that specialty fertilizers may be guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash and that fertilizer materials such as bone meal, manures, and similar raw materials may be guaranteed in fractional units.
- (7)
  - (a) "Guaranteed analysis" means the minimum percentage by weight of plant nutrients claimed in the following order and form:

Total nitrogen (N)	_____ percent
Available phosphoric acid (P <sub>0</sub> )	_____ percent
Soluble potash (K <sub>0</sub> )	_____ percent

- (b) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphate materials, it means the total phosphoric acid or degree of fineness.
- (c) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds per ton, when required by rule.
- (d)
  - (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rule of the department.
  - (ii) The guarantees for such other nutrients shall be expressed in the form of the element.
  - (iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required to be stated on the application for registration and may be included as a parenthetical statement on the label.
  - (iv) Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department.
  - (v) Any plant nutrients or other substances or compounds guaranteed are subject to inspection and analysis in accord with the methods and rules prescribed by the department.
- (8) "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of commercial fertilizer or soil amendment.
- (9) "Label" means the display of all written, printed, or graphic matter upon the immediate container or statement accompanying a commercial fertilizer or soil amendment.
- (10) "Labeling" means all written, printed, or graphic matter upon or accompanying any commercial fertilizer or soil amendment, or advertisements, brochures, posters, television and radio announcements used in promoting the sale of such commercial fertilizers or soil amendments.
- (11) "Mixed fertilizer" means a commercial fertilizer containing any combination of fertilizer materials.
- (12) "Official sample" means any sample of commercial fertilizer or soil amendment taken by the department and designated as "official."
- (13) "Percent" or "percentage" means the percentage by weight.
- (14) "Registrant" means any person who registers a commercial fertilizer or a soil amendment under the provisions of this chapter.
- (15)
  - (a) "Soil amendment" means any substance that is intended to improve the physical characteristics of soil.
  - (b) "Soil amendment" does not include any commercial fertilizer, agriculture liming materials, unmanipulated animal manure, unmanipulated vegetable manure, pesticides, or other material exempt by rule of the department.
- (16) "Specialty fertilizer" means any commercial fertilizer distributed primarily for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.
- (17) "Ton" means a net weight of 2,000 pounds avoirdupois.

Amended by Chapter 179, 2007 General Session

**4-13-3 Distribution of commercial fertilizer or soil amendment -- Registration required -- Application -- Fees -- Expiration -- Renewal -- Exemptions specified -- Blenders and mixers to register name under which business conducted -- Blenders and mixers fee.**

- (1)
  - (a) Each brand and grade of commercial fertilizer or soil amendment shall be registered in the name of the person whose name appears upon the label before being distributed in this state.

- (b) The application for registration shall be submitted to the department on a form prescribed and furnished by it, and shall be accompanied by a fee determined by the department pursuant to Subsection 4-2-2(2) for each brand and grade.
- (c) Upon approval by the department, a copy of the registration shall be furnished to the applicant.
- (d)
  - (i) Each registration expires at midnight on December 31 of the year in which issued.
  - (ii) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.
  - (iii) Each renewal fee shall be paid on or before December 31 of each year.
- (2) The application for registration shall include the following information:
  - (a) the net weight;
  - (b) the brand and grade;
  - (c) the guaranteed analysis;
  - (d) the name and address of the registrant; and
  - (e) any other information as the department may prescribe by rule.
- (3) A distributor is not required to register any commercial fertilizer which has been registered by another person under this chapter if the label does not differ in any respect.
- (4)
  - (a) A distributor is not required to register each grade of commercial fertilizer formulated by a consumer before mixing, but is required to:
    - (i) register the name under which the business of blending or mixing is conducted;
    - (ii) pay an annual blenders license fee determined by the department pursuant to Subsection 4-2-2(2); and
    - (iii) label the mixed fertilizer or soil amendment as provided in Section 4-13-4.
  - (b)
    - (i) A blenders license shall expire at midnight on December 31 of the year in which it is issued.
    - (ii) A blenders license is renewable for a period of one year upon the payment of an annual license renewal fee in an amount equal to the current applicable original blenders license fee.
    - (iii) Each renewal fee shall be paid on or before December 31 of each year.
- (5)
  - (a) A fee shall be assessed on fertilizer and soil amendment products sold in the state.
  - (b) The fee shall be:
    - (i) determined by the department pursuant to Subsection 4-2-2(2); and
    - (ii) paid by the manufacturer or distributor on a schedule specified by rule.
  - (c) Revenue generated by the fee shall be deposited in the General Fund as dedicated credits to be used by the department for education about and promotion of proper fertilizer distribution, handling, and use.

Amended by Chapter 81, 1997 General Session

**4-13-4 Labeling requirements for specialty fertilizer, bulk commercial fertilizer, packaged mixed fertilizer, and soil amendments specified.**

- (1) Each container of specialty commercial fertilizer distributed in this state shall bear a label setting forth:
  - (a) its net weight;
  - (b) brand and grade;

- (c) guaranteed analysis;
  - (d) the name and address of the registrant; and
  - (e) the lot number.
- (2)
- (a) Each bulk shipment of commercial fertilizer distributed in this state shall be accompanied by a printed or written statement setting forth the information specified in Subsections (1)(a) through (e).
  - (b) The statement shall be delivered to the purchaser at the time the bulk fertilizer is delivered.
- (3) Each sale of packaged mixed fertilizer shall be labeled, or labeling furnished the consumer, to show its net weight, guaranteed analysis, lot number, and the name and address of the distributor.
- (4)
- (a) Each container of soil amendment shall conform to the requirements of Subsection (1), and if distributed in bulk, with Subsection (2).
  - (b) The name or chemical designation and content of the soil amending ingredient or any other information prescribed by rule of the department shall appear whether distributed in a container or in bulk.

Amended by Chapter 179, 2007 General Session

**4-13-5 Enforcement -- Inspection and samples authorized -- Methods for sampling and analysis prescribed -- Warrants.**

- (1) The department shall periodically sample, inspect, analyze, and test commercial fertilizers and soil amendments distributed within this state to determine if they comply with this chapter.
- (2) Methods of analysis and sampling shall be in accordance with those adopted by the department from sources such as the Association of Official Analytical Chemists Journal.
- (3) In determining whether a commercial fertilizer or soil amendment is deficient, the department shall be guided solely by the official sample.
- (4) The department is authorized to enter any public or private premises or carriers during regular business hours in order to have access to commercial fertilizers or soil amendments subject to this chapter. If admittance is refused, the department may proceed immediately to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

Enacted by Chapter 2, 1979 General Session

**4-13-6 Distribution of fertilizers not complying with labeling requirements prohibited -- Guaranteed analysis deficient -- Penalty assessed -- Time for payment -- Court action to vacate or amend finding authorized.**

- (1) No person shall distribute in this state a commercial fertilizer, fertilizer material, soil amendment or specialty fertilizer if the official sample thereof establishes that the commercial fertilizer, fertilizer material, soil amendment or specialty fertilizer is deficient in the nutrients guaranteed on the label by an amount exceeding the values established by rule or if the overall index value of the official sample is below the level established by rule.
- (2) If an official sample, after analysis, demonstrates the guaranteed analysis is deficient in one or more of its primary plant foods (NPK) beyond the investigational allowance prescribed by rule, or if the over-all index value of the official sample is below the level established by

rule, a penalty of three times the commercial value of the deficiency or deficiencies of the lot represented by the official sample may be assessed against the registrant.

- (3) All penalties assessed under this section shall be paid to the department within three months after notice from the department.
- (4) Any registrant aggrieved by the finding of an official sample deficiency may file a complaint with a court of competent jurisdiction to vacate or amend the finding of the department.

Amended by Chapter 179, 2007 General Session

**4-13-7 Department to publish commercial values applied to components of commercial fertilizer.**

The department shall annually publish the values per unit of nitrogen, available phosphoric acid, and soluble potash in commercial fertilizers in this state for the purpose of notifying registrants of the commercial value to be applied to commercial fertilizers under Section 4-13-6.

Enacted by Chapter 2, 1979 General Session

**4-13-8 Suspension or revocation authorized -- Refusal to register authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.**

- (1) The department may revoke or suspend the registration of any brand of commercial fertilizer or soil amendment, or refuse to register any brand of commercial fertilizer or soil amendment upon satisfactory evidence that the registrant has used fraudulent or deceptive practices in registration or distribution in this state.
- (2) The department may issue a "stop sale, use or removal order" to the owner or person in possession of any designated lot of commercial fertilizer or soil amendment which it finds or has reason to believe is being offered or exposed for sale in violation of this chapter. The order shall be in writing and no commercial fertilizer or soil amendment subject to it shall be moved or offered or exposed for sale, except upon the subsequent written release of the department. Before a release is issued, the department may require the owner or person in possession of the "stopped" lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.
- (3) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of any fertilizer which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction, to prevent violation of this chapter. No bond shall be required of the department in any injunctive proceeding under this section.
- (4) If condemnation is ordered, the fertilizer or soil amendment shall be disposed of as the court directs; provided, that in no event shall it order condemnation without giving the claimant of the fertilizer or soil amendment an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the product into conformance, or to remove it from the state.
- (5) If the court orders condemnation of the commercial fertilizer or soil amendment, court costs, fees, storage, and other expenses shall be awarded against the claimant of the fertilizer or soil amendment.

Enacted by Chapter 2, 1979 General Session

**4-13-9 Sales or exchanges of commercial fertilizers or soil amendments between manufacturers, importers, or manipulators permitted.**

Nothing in this chapter shall be construed to restrict or avoid sales or exchanges of commercial fertilizers or soil amendments to each other by importers, manufacturers, or manipulators who mix fertilizer or soil amendment materials for sale or as preventing the free and unrestricted shipment of commercial fertilizer or soil amendments to manufacturers or manipulators who have registered their brands as required by this chapter.

Enacted by Chapter 2, 1979 General Session